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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,492	07/08/2003	Yao-Sheng Lee	074361.00015	9712
7590	06/06/2005		EXAMINER	
Harvey S. Kauget Holland & Knight LLP Suite 4100 100 N. Tampa Street Tampa, FL 33602-3644			TRAN, BINH X	
			ART UNIT	PAPER NUMBER
			1765	
			DATE MAILED: 06/06/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/616,492	LEE, YAO-SHENG	
	Examiner	Art Unit	
	Binh X. Tran	1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1-12-2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1-14) in the reply filed on 5-2-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5-2-2005.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Furuta et al. (US 2002/0185466 A1).

Respect to claim 1, Furuta discloses a method for anisotropically dry etching a compound semiconductor heterostructure comprising the steps of:

selectively masking a surface of the heterostructure (step 1209 in Fig 12; photoresist mask 916 in Fig 9); exposing the masked heterostructure to a plasma comprising a mixture of hydrogen bromide (HBr) ad nitrogen (N₂) to anisotropically etch the unmasked portion of the heterostructure in a direction generally perpendicular to the major surface (Fig 10, 11, paragraph 0034).

Respect to claim 3, Furuta discloses the semiconductor heterostructure contain indium (e.g. indium tin oxide layer 912). Respect to claim 5, Furuta discloses the etching the structure using inductively coupled plasma (ICP) etching system (paragraph 0034).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanabe et al. (US 2003/0066817 A1) in view of Tsou (US 5,286,337).

Respect to claim 1, Tanabe discloses anisotropically dry etching method comprising the steps of:

selective masking a surface of the heterostructure (resist mask or SiO₂ mask, paragraph 0067, 0085);

exposing the masked heterostructure to a plasma comprising HBr (aka hydrogen bromide) and an inert gas to anisotropically etch the unmasked portion of the heterostructure in a direction generally perpendicular to the major surface (paragraph 0085).

Tanabe fails to disclose the plasma mixture comprises nitrogen. However, Tanabe clearly discloses the plasma mixture comprises inert gas. In a plasma etching method, Tsou discloses inert gas is selected from the group consisting of argon, helium and nitrogen. It would have been obvious to one having ordinary skill in the art, at the time of invention, to modify Tanabe in view of Tsou by using nitrogen as inert gas because equivalent and substitution of one for the other would produce an expected result.

Respect to claims 2 and 8, Tanabe discloses maintaining the temperature of 250 °C (read on “above 160 °C”, paragraph 0061, 0065, 0067). Respect to claims 3-4 and 9-10, Tanabe discloses the semiconductor heterostructure includes InP-base compound (paragraph 0065). Respect to claims 5, 11-12, Tanabe discloses the step of performing the etching process with an inductively coupled plasma etching system (paragraph 0001, Fig 1, Fig 11). Respect to claims 6, 13, Tanabe discloses the etching rate in the range of 1-5 µm/min (Fig 6). Respect to claims 7 and 14, Tanabe discloses the pressure is greater than 0 Pa and less than 4 Pa (fig 3D, 0-30 mTorr, within applicant’s value).

Conclusion

Art Unit: 1765

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh X. Tran whose telephone number is (571) 272-1469. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Binh Tran

Binh X. Tran